

HUMAN SERVICES BOARD

INTRODUCTION

FINDINGS OF FACT

2. HAEU used the information from the two Schedule Cs the petitioner provided to determine petitioner's

eligibility. Based on this information, HAEU sent petitioner a Notice of Decision on August 30, 2007 terminating his VHAP eligibility as of September 30, 2007. Petitioner was found eligible for Healthy VermonTERS. Petitioner filed a timely appeal and has been receiving continuing VHAP benefits. A hearing was held on November 1, 2007 and the record was held open until November 27, 2007 for additional information.

3. The petitioner does not dispute the information contained on the two Schedule Cs; petitioner disputes HAEU's policy of looking at each income stream separately rather than offsetting one business's net loss from the other business's profit.

4. (a) In terms of the rental property, petitioner's Schedule C shows annual income of \$1,836 and annual expenses of \$18,017.60 leading to a loss of \$16,181.60.

(b) In terms of the credit card processing business, petitioner's Schedule C shows an annual income of \$78,687 and annual expenses of \$47,783.88 leading to a profit of \$30,903.12.

5. J.D., HAEU eligibility worker, testified. J.D. stated that agency policy does not allow her to offset the loss from one business against the profit of the other business.

6. Based on the 2006 income tax filings, HAEU determined that petitioner had monthly income of \$2,575.34. HAEU applied the \$90 employment expense deduction and then subtracted the \$250 child support paid by petitioner leaving \$2,235.34 in countable monthly income. Petitioner's countable monthly income exceeds the program maximum of \$1,277.

7. Petitioner testified that his income should be considered \$15,489.63 or the adjusted gross income reflected on his 2006 federal income tax return.

ORDER

The Department's decision is affirmed.

REASONS

The Vermont Health Access Plan (VHAP) was created to "provide health care coverage for uninsured and underinsured low income Vermonters". 33 V.S.A. § 1973(b), W.A.M. § 4000. The Department operates VHAP through a waiver from the Department of Health and Human Services that allows the Department to waive compliance with portions of the federal Medicaid requirements. 42 U.S.C. § 1315. For example, the VHAP program allows the Department to waive the Medicaid resource limits and allows the Department to provide VHAP to

individuals whose countable income does not exceed 150 percent of the Federal Poverty Level.

The Department has promulgated regulations that set out how income is to be counted for VHAP eligibility. The Department looks at all sources of unearned and earned income when determining eligibility. All earned income, except a \$90 disregard for each earner, is included as countable income. Income from self-employment is determined by deducting business expenses from gross receipts. W.A.M. §§ 4001.81(a)-(e).

Petitioner is self-employed and runs two separate businesses. Petitioner filed two separate Schedule Cs with his 2006 return. Petitioner argues that the losses from one business should offset the profit from the other business.¹

The Department does not allow self-employment losses from one business to offset self-employment gains from another business. Although the VHAP regulations do not specifically address whether such an offset is allowed, the Department has consistently refused to allow such offsets when determining countable income for other programs such as Medicaid, Reach Up Financial Assistance, and Food Stamps.

¹ If an offset were allowed, petitioner would fall within the eligibility guidelines.

See P.P.&D. Memo, Facing Page P-2122(B)(4) dated 3/7/95. In addition, the Board recently addressed this issue and affirmed the Department's policy that self-employment losses from one business cannot offset self-employment gains from another business. Fair Hearing No. 20,914.

Because the Department correctly determined that petitioner's countable income exceeded the program maximum of \$1,277 per month for a household of one (P-2420B), the Department's decision to terminate VHAP coverage is affirmed. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 17.

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